

EMPLOYMENT APPEALS BOARD DECISION
2015-EAB-0112

Affirmed
Disqualification

PROCEDURAL HISTORY: On December 26, 2014, the Oregon Employment Department (the Department) served notice of an administrative decision concluding claimant voluntarily left work without good cause (decision # 73648). Claimant filed a timely request for hearing. On January 27, 2015, ALJ Wyatt conducted a hearing, and on February 23, 2015, issued Amended Hearing Decision 15-UI-33863, affirming the Department's decision. On March 9, 2015, claimant filed an application for review with the Employment Appeals Board (EAB).

FINDINGS OF FACT: (1) Harris Transportation Company LLC employed claimant as a dispatcher from April 1, 2014 to November 14, 2014.

(2) Claimant typically worked Sunday to Wednesday, from 10:00 a.m. to 10:00 p.m. Claimant preferred this schedule because it was different from that of his girlfriend and allowed him to take his two children to school. In November 2014, the employer notified claimant that his work schedule had been changed to Wednesday to Saturday, 4:00 a.m. to 4:00 p.m. Claimant was unhappy with the new schedule because it made his personal life more difficult. Claimant did not know when his new fixed schedule would begin but understood that there would be a transition period during which he would work random shifts. The employer's chief financial officer (CFO), who was determining the schedules at the time, wrote out a schedule of random shifts for claimant for the week November 9 through 15. Claimant's last shift on that schedule took place on Friday, November 14.

(3) During claimant's morning shift on November 14, he went to the CFO's office to determine his schedule for the following week but was told the CFO was on vacation "for a week or two." Audio Record ~ 20:30 to 21:10. Rather than wait for the CFO return or speak to the employer's human resources officer, who was in his office on premises at the time, about his work schedule for the following week, claimant returned to his work station, told another dispatcher, "I'm done" and walked off the job. Audio Record ~ 16:0 to 16:50. The other dispatcher went to the human resources officer and reported that claimant had abruptly left work and what he had said when he left.

(4) On November 14, 2014, claimant quit work because he did not know if or when he would be working for “a week or two” and was concerned about not having any income during that period of time. Audio Record ~ 20:30 to 21:10.

CONCLUSIONS AND REASONS: We agree with the ALJ. Claimant voluntarily left work without good cause.

A claimant who leaves work voluntarily is disqualified from the receipt of benefits unless he (or she) proves, by a preponderance of the evidence, that he had good cause for leaving work when he did. ORS 657.176(2)(c); *Young v. Employment Department*, 170 Or App 752, 13 P3d 1027 (2000). “Good cause” is defined, in relevant part, as a reason of such gravity that a reasonable and prudent person of normal sensitivity, exercising ordinary common sense, would have no reasonable alternative but to leave work. OAR 471-030-0038(4). The standard is objective. *McDowell v. Employment Department*, 348 Or 605, 612, 236 P2d 722 (2010). A claimant who quits work must show that no reasonable and prudent person would have continued to work for the employer for an additional period of time.

Claimant walked off his full-time job when he did, during the middle of his shift, because he did not know if or when he would be working for “a week or two.” Viewed objectively, we agree with the ALJ that claimant failed to show that his circumstances were so grave that a reasonable and prudent dispatcher of normal sensitivity, interested in maintaining employment and exercising ordinary common sense in such circumstances, would have concluded that he had no reasonable alternative but to immediately walk off the job. Hearing Decision 15-UI-33863 at 3. Claimant could have asked the human resources officer about his schedule for the upcoming “week or two.” She could and would have contacted the CFO about that issue, or, if unable to reach the CFO, could have told claimant that the CFO was scheduled to return on Monday, November 17. Claimant failed to show that taking this objectively reasonable step would have been futile and that no reasonable and prudent associate dispatcher would have taken it before abruptly walking off the job without notice.

Claimant voluntarily left work without good cause and is disqualified from receiving unemployment insurance benefits until he has earned four times his weekly benefit amount from work in subject employment.

DECISION: Hearing Decision 15-UI-32478 is affirmed.

Susan Rossiter and J. S. Cromwell;
Tony Corcoran, not participating.

DATE of Service: March 23, 2015

NOTE: You may appeal this decision by filing a Petition for Judicial Review with the Oregon Court of Appeals within 30 days of the date of service listed above. See ORS 657.282. For forms and information, you may write to the Oregon Court of Appeals, Records Section, 1163 State Street, Salem, Oregon 97310 or visit the Court of Appeals website at courts.oregon.gov. Once on the website, use the ‘search’ function to search for ‘petition for judicial review employment appeals board’. A link to the forms and information will be among the search results.

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